

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**JOHN BALLENGER
RESPONDENT
vs.**

**JANICE BALLENGER,
APPELLANT**

DOCKET NUMBER W77261

DATE: OCTOBER 14, 2014

Appeal from:

The Circuit Court of Johnson County, Missouri
The Honorable R. Michael Graves, Judge

Appellate Judges:

Division Two: Victor C. Howard, Presiding Judge, Alok Ahuja, Judge and Gary D. Witt, Judge

Attorneys:

Adam Sommer, for Respondent

John H. Edmiston, for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

JOHN BALLENGER, RESPONDENT

v.

JANICE BALLENGER, APPELLANT

WD77261

Johnson County

Before Division Two: Victor C. Howard, Presiding Judge, James E. Welsh, Judge and Anthony Rex Gabbert, Judge

In this habeas corpus proceeding, the trial court ordered the return of custody of the minor child to John Ballenger (Father) pursuant to a paternity judgment entered before the parties' marriage. Janice Ballenger (Mother) appeals arguing that the parties' marriage effectively abrogated and nullified the prior paternity judgment.

REVERSED.

Division Two holds:

When the parents in this case married in 2007, they no longer had separate rights of custody that required supervision by the court but one common right of custody, and the custody provision of the 2003 paternity judgment was nullified. The trial court erred in entering judgment ordering the return of custody of the minor child to Father pursuant to the 2003 paternity judgment.

Opinion by: Victor C. Howard, Judge

Date: October 14, 2014

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